

TITLE 54
PROFESSIONS, VOCATIONS, AND BUSINESSES

CHAPTER 57
IDAHO TELEHEALTH ACCESS ACT

54-5701. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Telehealth Access Act."

[(54-5701) 54-5601, added 2015, ch. 121, sec. 1, p. 308; am. and redesignig. 2016, ch. 47, sec. 26, p. 121.]

54-5702. LEGISLATIVE FINDINGS. The legislature hereby finds the following:

(1) Telehealth services enhance access to health care, make delivery of health care more cost-effective and distribute limited health care provider resources more efficiently.

(2) Citizens with limited access to traditional health care may be diagnosed and treated sooner through telehealth services than they would be otherwise, resulting in improved health outcomes and less costly treatments due to early detection and prevention.

(3) Telehealth services address an unmet need for health care by persons who have limited access to such care due to provider shortages or geographic barriers.

(4) Telehealth services provide increased capacity for appropriate care in the appropriate location at the appropriate time to better serve patients, providers and communities.

(5) When practiced safely, telehealth services result in improvement in health outcomes by expanding health care access for the people of Idaho.

[(54-5702) 54-5602, added 2015, ch. 121, sec. 1, p. 308; am. and redesignig. 2016, ch. 47, sec. 27, p. 121.]

54-5703. DEFINITIONS. As used in this chapter:

(1) "Asynchronous store and forward transfer" means the transmission of a patient's health care information from an originating site to a provider at a distant site over a secure connection that complies with state and federal security and privacy laws.

(2) "Distant site" means the site at which a provider delivering telehealth services is located at the time the service is provided.

(3) "Originating site" means the location of a patient at the time telehealth services are provided.

(4) "Provider" means a person who is licensed, required to be licensed, or, if located outside of Idaho, would be required to be licensed if located in Idaho, pursuant to title 54, Idaho Code, to deliver health care consistent with his or her license.

(5) "Synchronous interaction" means real-time communication through interactive technology that enables a provider and a patient at two (2) locations separated by distance to interact simultaneously through two-way video and audio or audio transmission.

(6) "Telehealth services" means health care services provided by a provider to a person through the use of electronic communications, information technology, asynchronous store and forward transfer or synchronous interaction between a provider at a distant site and a patient at an originating site. Such services include, but are not limited to, clinical care,

health education, home health and facilitation of self-managed care and caregiver support.

[(54-5703) 54-5603, added 2015, ch. 121, sec. 1, p. 308; am. and redesign. 2016, ch. 47, sec. 28, p. 122.]

54-5704. SCOPE OF PRACTICE. A provider offering telehealth services must at all times act within the scope of the provider's license and according to all applicable laws and rules, including, but not limited to, this chapter and the community standard of care.

[(54-5704) 54-5604, added 2015, ch. 121, sec. 1, p. 308; am. and redesign. 2016, ch. 47, sec. 29, p. 122.]

54-5705. PROVIDER-PATIENT RELATIONSHIP. (1) If a provider offering telehealth services in his or her practice does not have an established provider-patient relationship with a person seeking such services, the provider shall take appropriate steps to establish a provider-patient relationship by use of two-way audio and visual interaction; provided however, that the applicable Idaho community standard of care must be satisfied. Nothing in this section shall prohibit electronic communications:

(a) Between a provider and a patient with a preexisting provider-patient relationship;

(b) Between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;

(c) Between a provider and a patient where the provider is taking call on behalf of another provider in the same community who has a provider-patient relationship with the patient; or

(d) In an emergency.

(2) As used in this section, "emergency" means a situation in which there is an occurrence that poses an imminent threat of a life-threatening condition or severe bodily harm.

[(54-5705) 54-5605, added 2015, ch. 121, sec. 1, p. 308; am. and redesign. 2016, ch. 47, sec. 30, p. 122.]

54-5706. EVALUATION AND TREATMENT. Prior to providing treatment, including a prescription drug order, a provider shall obtain and document a patient's relevant clinical history and current symptoms to establish the diagnosis and identify underlying conditions and contraindications to the treatment recommended. Treatment recommendations provided through telehealth services shall be held to the applicable Idaho community standard of care that applies in an in-person setting. Treatment based solely on an online questionnaire does not constitute an acceptable standard of care.

[(54-5706) 54-5606, added 2015, ch. 121, sec. 1, p. 309; am. and redesign. 2016, ch. 47, sec. 31, p. 123.]

54-5707. PRESCRIPTIONS. (1) A provider with an established provider-patient relationship, including a relationship established pursuant to section 54-5705, Idaho Code, may issue prescription drug orders using telehealth services within the scope of the provider's license and according to any applicable laws, rules and regulations, including the Idaho community standard of care; provided however, that the prescription drug shall not be a controlled substance unless prescribed in compliance with 21 U.S.C. section 802(54) (A).

(2) Nothing in this chapter shall be construed to expand the prescriptive authority of any provider beyond what is authorized by the provider's licensing board.

[(54-5707) 54-5607, added 2015, ch. 121, sec. 1, p. 309; am. and redesign. 2016, ch. 47, sec. 32, p. 123; am. 2017, ch. 242, sec. 3, p. 600.]

54-5708. INFORMED CONSENT. A patient's informed consent for the use of telehealth services shall be obtained as required by any applicable law.

[(54-5708) 54-5608, added 2015, ch. 121, sec. 1, p. 309; am. and redesign. 2016, ch. 47, sec. 33, p. 123.]

54-5709. CONTINUITY OF CARE. A provider of telehealth services shall be available for follow-up care or to provide information to patients who make use of such services.

[(54-5709) 54-5609, added 2015, ch. 121, sec. 1, p. 309; am. and redesign. 2016, ch. 47, sec. 34, p. 123.]

54-5710. REFERRAL TO OTHER SERVICES. A provider shall be familiar with and have access to available medical resources, including emergency resources near the patient's location, in order to make appropriate patient referrals when medically indicated.

[(54-5710) 54-5610, added 2015, ch. 121, sec. 1, p. 309; am. and redesign. 2016, ch. 47, sec. 35, p. 123.]

54-5711. MEDICAL RECORDS. Any provider offering telehealth services as part of his or her practice shall generate and maintain medical records for each patient using such telehealth services in compliance with any applicable state and federal laws, rules and regulations, including the health insurance portability and accountability act (HIPAA), P.L. 104-191 (1996), and the health information technology for economic and clinical health act (HITECH), P.L. 111-115 (2009). Such records shall be accessible to other providers and to the patient in accordance with applicable laws, rules and regulations.

[(54-5711) 54-5611, added 2015, ch. 121, sec. 1, p. 309; am. and redesign. 2016, ch. 47, sec. 36, p. 124.]

54-5712. ENFORCEMENT AND DISCIPLINE. A provider is prohibited from offering telehealth services in his or her practice if the provider is not in full compliance with applicable laws, rules and regulations, including this act and the Idaho community standard of care. State licensing boards shall be authorized to enforce the provisions of this chapter relating to the practice of individuals they license. A provider who fails to comply with applicable laws, rules and regulations is subject to discipline by his or her licensing board.

[(54-5712) 54-5612, added 2015, ch. 121, sec. 1, p. 310; am. and redesign. 2016, ch. 47, sec. 37, p. 124.]

54-5713. RULEMAKING. Any board authorized by title 54, Idaho Code, to license providers may promulgate rules relating to telehealth services pursuant to this chapter and consistent with the provisions contained herein.

[(54-5713) 54-5613, added 2015, ch. 121, sec. 1, p. 310; am. and redesign. 2016, ch. 47, sec. 38, p. 124.]